

Docket No. 2138.001B
U.S. Serial No. 10/661,292

REMARKS

Rejections Under 35 U.S.C. § 102:

Claims 1, 4-6, 19-22, 25 and 27 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,504,991 to Klanenik. The rejection is traversed.

The Klanenik patent relates to mattresses composed of a layer 12 of a flame retardant material bonded a layer 14 of a high tensile strength material, such as fiberglass fabric (Abstract, FIG. 1). FIG. 2 depicts an embodiment including a flame retardant layer 22, a layer of a high tensile strength material 24 and a second flame retardant layer 26 (column 5, lines 16-21). Layers 12, 22 and 26 are made of a flame retardant neoprene foam (column 5, lines 2426).

Claims 1 and 19 are now amended to specify that the claimed invention relates to a fire barrier textile that includes a fire barrier fabric layer and a thermally insulating fabric layer. The Klanenik patent discloses flame retardant neoprene foam for use as the flame retardant material or layer and the patent is silent regarding other materials that could be used in this layer. Therefore, since Klanenik does not disclose a fire barrier textile that includes a thermally insulating *fabric*, applicants submit that the reference does not anticipate claims 1 and 19. Likewise, claims 4-6, which depend from claim 1, and claims 20-22, 25 and 27, which depend from claim 19, are not anticipated. (Applicants note that the claims of the parent of the present application, USSN 10/291,879, were originally rejected over USP 4,504,991. These claims were amended in a manner identical to that of the present application, and were recently allowed). It is believed that the rejection is hereby overcome.

Rejections Under 35 U.S.C. § 103:

Claims 2, 7, 23-24, and 26 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,504,991 to Klanenik, in view of U.S. Patent No. 6,410,140, to Land *et al.* The rejection is traversed.

US 6,410,140 relates to a flame retardant core spun yarn, fabrics formed from this yarn, and articles upholstered with the fabric (Abstract). The teachings of Klanenik are discussed above. The Office Action states that Klanenik discloses all of applicants' claimed limitations except for the full-scale open flame test of claims 2 and 7, and the specific fiber compositions of claims 23, 24 and 26. However, as claim 1, from which claims 2 and 7, and claim 19, from which claims 23, 24, and 26 depend, are now amended to exclude Klanenik's composite, as described above, Klanenik does not disclose the limitation of the claims as amended. Therefore, the combination of Klanenik with Land *et al.* would not result in the

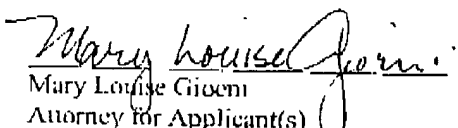
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claimed invention because neither discloses a fire barrier textile composed of a fire barrier fabric layer and a thermally insulating fabric layer, even if there were a motivation in the references to make the combination. It is believed that the rejection is hereby overcome.

Allowable Subject Matter:

The Office Action indicates that claims 3 and 28 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 3 and 28 are now amended in accordance with this suggestion. It is believed that they are now in allowable form.

Respectfully submitted,


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